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09/775,170	02/01/2001	John M. Svoboda	LIT-PI-480	7280
7590		07/06/2007		
W. Gary Goodson				
Bechtel BWXT Idaho, LLC				
P. O. Box 1625				
Idaho Falls, ID 83415-3899				
			EXAMINER	
			TANG, KAREN C	
			ART UNIT	PAPER NUMBER
			2151	
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			07/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/775,170	Applicant(s) SVOBODA ET AL.	
	Examiner Karen C. Tang	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19, 21 and 23-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19, 21, 23-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/16/07 has been entered.
- Claims 1-19, 21, 23-41 are presented for further examination.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-19, 21, 23-41 have been considered but are moot in view of the new ground(s) of rejection.

However, Examiner would like to address a few remarks and argument filed by applicant back in 04/16/07.

Applicant has never defined within the specification what a reliable network connection is, therefore, it is being interpreted as: any wireless network is unreliable network.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention 29-35 are directed to non-statutory subject matter.

Art Unit: 2151

A computer program having code recorded on a computer readable medium such as carrier wave or optical wave is not tangible since such computer transport medium does not fall into the categories of "process", "machine", "manufacture" and "composition of matter". Furthermore, the computer program stored on carrier wave is not operable if not executed by a computer or system. Therefore, the inoperative of the computer program stored on a computer transport medium lacks utility.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19, 21, and 23-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bachner III et al hereinafter Bachner (US 2007/0055762) in view of Kizu et al hereinafter Kizu (US 2004/0179511).

1. Referring to Claim 1, 19, 29, 30, 31, 36, 37 and 38, Bachner discloses in a method of replicating data in a network communication system comprising:

utilizing a wireless communication system that does not require reliable network connection (it is well known that wireless network does not provide reliable network connection);

and which includes a first communication node (wireless phone, refer to 0027, Lines 2) and a second communication node (WIPS, refer to 0027, lines 1);

at least one communication node of the plurality is mobile and wherein at least one of the plurality of communication node is an intended archival system, and a storage device located at

Art Unit: 2151

each communication node of the plurality (WIPS contains memory that stores data, refer to 0026, Lines 2);

using a first monitor at the first communication node and a second monitor at the second communication node to determine when the first and second communication nodes are within a communication range of each other, wherein at least one of the first and second nodes is mobile (refer to 0027, Lines 16, it is obvious that Bluetooth technology used on both nodes, provides dynamically connected to each other and transfer information when both nodes realized that they are within range); creating a dynamic connection between the first and second nodes while they are within the communication range (Bluetooth technology provides the functionality.);

employing an opportunistic data transfer between the first and second communication nodes across the dynamic connection while the dynamic connection is activated, wherein the opportunistic data transfer comprises (Bluetooth technology provide data transfer when the two nodes are in fact, within range, refer to 0027, Lines 16, and 0035, Lines 20-31):

retaining for future communication, first data element (data at the wireless phone) at the first communication node and second data element (data at WIPS, refer to 0025) at the second communication node when the dynamic connection is inactive (refer to 0030, refer to 0030); replicating the first data elements and the second data elements at each of the first and second communication nodes by propagating a redundant copy of the first data elements and the second data elements when the dynamic connection is active (refer to 0030 and 0046, and 0052 and 0025, Lines 5-7, also, refer to 0028, updating, Lines 9-10)

Although Bachner disclosed the invention substantially as claimed, Bachner is silence regarding

Art Unit: 2151

after the replicating, retaining the first data elements and the second data elements at each of the first and second communication nodes until a command is received to delete or modify the replicated data elements from the network (refer to 0089);

Kizu, in an analogous art disclosed after the replicating, retaining the first data elements and the second data elements at each of the first and second communication nodes until a command is received to delete or modify the replicated data elements from the network (refer to 0084 and 0088).

Hence, providing the features disclosed by Kizu, would be desired for user to implement because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified the system of Bachner by including the features which eliminate replicating redundant data and reduce the data conflict after replicating.

2. Referring to Claim 2, Bachner discloses replicating includes comparing data stored locally at the first communication node with data stored locally at the second communication node (refer to 0046).

3. Referring to Claims 3, 21, and 23 Bachner discloses if the data stored at the first communication node includes first information that is not stored at the second communication node, the act of replicating includes storing a copy of the first information at the second node (it is obvious that the data are transmit in segments, refer to 0046).

4. Referring to Claims 4, 24, 25, Bachner discloses wherein the first information includes an instruction to delete information (updated information, it is obvious that it can be an delete information, refer to 0046 and 0036).

5. Referring to Claim 5, Bachner discloses wherein the first information includes an instruction to modify information (refer to 0036 and 0046).

6. Referring to Claim 6, Bachner discloses wherein the first communication node includes a first opportunistic data transfer protocol component and the second communication node includes a second opportunistic data transfer protocol component (nodes uses Bluetooth protocol which is the opportunistic data transfer protocol component, refer to 0027).

7. Referring to Claim 7, Bachner discloses wherein the first and second opportunistic data transfer components data transfer protocol components perform the acting of using the first and second monitor and for creating the dynamic connection (Bluetooth technology provide data transfer when the two nodes are in fact, within range, refer to 0027, Lines 16, and 0035, Lines 20-31).

8. Referring to Claim 8, Bachner discloses a plurality of nodes (wireless phone, WIPs, display device, refer to 0027, Lines 1-2), and each nodes consists a monitor which using the first and second monitors and a third monitor (each devices uses Bluetooth protocol, which monitor if the device is within range, and pick up the data another device is trying to transfer, refer to 0027,

Art Unit: 2151

Lines 14-17), at a third communication node to determine when the first, second and third communication nodes are within communication range, wherein the third communication nodes includes a third opportunistic data transfer protocol component (the third device comprising the Bluetooth protocol which is the opportunistic data transfer protocol components), and wherein at least one of the first, second and third communication nodes is mobile (wireless phone is the mobile, refer to 0027, Lines 1); and including the third communication node in the dynamic connection.

9. Referring to Claim 9, Bachner discloses third data elements at the third communication node, and wherein the act of replicating the first data elements and the second data elements includes replicating the first data elements, the second data elements, and the third data elements among the first, second and third communication node (refer to 0034).

10. Referring to Claim 10, Bachner discloses wherein when at least one of the first, second and third communication nodes is no longer within communication range, excluding the at least one communication node from the dynamic connection (Bluetooth protocol only can transmit within the short range, if the device is out of the range, there will no longer be connection exist automatically.).

11. Referring to Claim 11, Bachner discloses wherein when the at least one communication node is again within communication range, including the at least one communication node in the dynamic connection and continuing to replicate data with at least one communication node

across the dynamic connection (refer to 0030, when the device utilizing the Bluetooth protocol, and is within another device within the connection range, it replicate updated data across the connection).

12. Referring to Claim 12, Bachner discloses wherein the dynamic connection is disconnected (when the two devices out of range, refer to 0030)

Although Bachner disclosed the invention substantially as claimed, Bachner is silence regarding having more than 3 devices and all are having Bluetooth capability in order to replicating data in the opportunistic way.

Kizu, in an analogous art disclosed more than 3 devices and all are having Bluetooth capability in order to replicating data in the opportunistic way (refer to Fig 4, how the data can be replicating in the one to plurality relationship, meaning, one device can transmit data to many devices, in the opportunistic way/Bluetooth protocol, refer to 0081).

Hence, providing the features disclosed by Kizu, would be desired for user to implement because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified the system of Bachner by including the features which eliminate replicating redundant data and reduce the data conflict after replicating.

13. Regarding to Claim 13, Although Bachner disclosed the invention substantially as claimed, Bachner is silence regarding wherein the fourth communication node is an intended archival system that includes a storage device.

Kizu, in an analogous art disclosed wherein the fourth communication node is an intended archival system that includes a storage device (each device can stores information, refer to 0052).

14. Referring to Claim 14, Bachner discloses replicating data (refer to 0034).

Although Bachner disclosed the invention substantially as claimed, Bachner is silence regarding having more than 3 devices and all are having Bluetooth capability in order to replicating data in the opportunistic way.

Kizu, in an analogous art disclosed more than 3 devices and all are having Bluetooth capability in order to replicating data in the opportunistic way (refer to Fig 4, how the data can be replicating in the one to plurality relationship, meaning, one device can transmit data to many devices, in the opportunistic way/Bluetooth protocol, refer to 0081).

Hence, providing the features disclosed by Kizu, would be desired for user to implement because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified the system of Bachner by including the features which eliminate replicating redundant data and reduce the data conflict after replicating.

Although Bachner disclosed the invention substantially as claimed, Bachner is silence regarding after the replicating, retaining the first data elements and the second data elements at each of the first and second communication nodes until a command is received to delete or modify the replicated data elements from the network (refer to 0089);

Kizu, in an analogous art disclosed after the replicating, retaining the first data elements and the second data elements at each of the first and second communication nodes until a command is

received to delete or modify the replicated data elements from the network (refer to 0084 and 0088).

Hence, providing the features disclosed by Kizu, would be desired for user to implement because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified the system of Bachner by including the features which eliminate replicating redundant data and reduce the data conflict after replicating.

15. Referring to Claim 15, Although Bachner disclosed the invention substantially as claimed, Bachner is silence regarding having more than 3 devices.

Kizu, in an analogous art disclosed more than 3 devices and the device are mobile (refer to 0052, and 0143)

Hence, providing the features disclosed by Kizu, would be desired for user to implement because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified the system of Bachner by including the features which eliminate replicating redundant data and reduce the data conflict after replicating.

16. Referring to Claim 16, Bachner discloses utilizing the Bluetooth protocol (refer to 0027), wherein, the Bluetooth technology is when devices are not within the communication range, the connection is disconnected.

Bachner is silence regarding having more than 3 devices.

Art Unit: 2151

Kizu, in an analogous art disclosed more than 3 devices and the device are mobile (refer to 0052, and 0143).

Hence, providing the features disclosed by Kizu, would be desired for user to implement because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified the system of Bachner by including the features which eliminate replicating redundant data and reduce the data conflict after replicating.

17. Referring to Claim 17, Bachner discloses replicating data (refer to 0034).

Although Bachner disclosed the invention substantially as claimed, Bachner is silence regarding having more than 3 devices and all are having Bluetooth capability in order to replicating data in the opportunistic way.

Kizu, in an analogous art disclosed more than 3 devices and all are having Bluetooth capability in order to replicating data in the opportunistic way (refer to Fig 4, how the data can be replicating in the one to plurality relationship, meaning, one device can transmit data to many devices, in the opportunistic way/Bluetooth protocol, refer to 0081).

Hence, providing the features disclosed by Kizu, would be desired for user to implement because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified the system of Bachner by including the features which eliminate replicating redundant data and reduce the data conflict after replicating.

Although Bachner disclosed the invention substantially as claimed, Bachner is silence regarding

Art Unit: 2151

after the replicating, retaining the first data elements and the second data elements at each of the first and second communication nodes until a command is received to delete or modify the replicated data elements from the network (refer to 0089);

Kizu, in an analogous art disclosed after the replicating, retaining the first data elements and the second data elements at each of the first and second communication nodes until a command is received to delete or modify the replicated data elements from the network (refer to).

Hence, providing the features disclosed by Kizu, would be desired for user to implement because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified the system of Bachner by including the features which eliminate replicating redundant data and reduce the data conflict after replicating.

18. Referring to Claim 18, Bachner discloses wherein the second and fifth communication nodes are the same communication node.

19. Referring to Claims 26, 27, 28, 34, 35, 40 and 41, Although Bachner disclosed the invention substantially as claimed, Bachner is silence regarding wherein when high priority is gathered, the system is further configured for transmitting the high priority data to a desired location through the use of a secure link; wherein the secure link includes one of a cellular link and a satellite link; wherein the high priority data is transferred in real-time.

Kizu, in an analogous art disclosed wherein when high priority is gathered, the system is further configured for transmitting the high priority data to a desired location through the use of a secure

link (refer to 0020); wherein the secure link includes one of a cellular link and a satellite link (refer to 0051); wherein the high priority data is transferred in real-time (Bluetooth allows data being transfer in real time.).

Hence, providing the features disclosed by Kizu, would be desired for user to implement because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified the system of Bachner by including the features which eliminate replicating redundant data and reduce the data conflict after replicating.

20. Referring to Claims 32, 33, and 39, although both Bachner and Kizu both are silence on indicating the act of comparing includes comparing the data headers and comparing the file directory information, however, it is obvious of ordinary skill in the art to indicate that the act of replicating or synchronize the updated data from both side of node or computers, require the data's header and the file directory from both side to be compared.

Conclusion

Examiner's Notes: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of

the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571)272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Karen Tang

LARRY D. DONAGHUE
PRIMARY EXAMINER

